

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Acceleration of Broadband Deployment)	WC Docket No. 11-59
Expanding the Reach and Reducing the Cost of)	
Broadband Deployment by Improving Policies)	
Regarding Public Rights of Way and Wireless)	
Facilities Siting)	

COMMENTS OF County of Franklin, Virginia

Franklin County, VA files these comments in response to the Notice of Inquiry (“NOI”), released April 7, 2011, in the above-entitled proceeding. Through these comments, Franklin County, VA seeks to provide the Commission with basic information regarding its local right-of-way and facility management practices and charges.¹ The Commission should not interfere with these local policies here. Franklin County, VA has developed considerable expertise applying its policies to protect and further public safety, economic development, and other community interests. By adopting rules in this area, the Commission could disrupt this process at substantial cost to local taxpayers and to the local economy. We believe that a basic respect for federalism, a fair reading of the Constitution and the Communications Act, and an honest assessment of the Commission’s limited expertise on local land use matters all point to the same conclusion: this is no place for federal regulation.

¹ We use the term “charges” to include both any cost recovery that is part of right-of-way and facility management (such as permitting fees), as well as other compensation we may receive from communications companies for use of the rights-of-way and other facilities consistent with state and local law.

Franklin County, VA has successfully managed its property to encourage deployment of several broadband networks to date. As a result, broadband service is available to 60-70% of the households and businesses in our jurisdiction. There is no evidence that our policies or charges with respect to placement of facilities in the rights-of-way or on County property (such as water towers) have discouraged broadband deployment. Our community *welcomes* broadband deployment, and our policies allow us to work with any company willing to provide service. No company has cited our policies as a reason that it will not provide service. We believe our policies have helped to *avoid* problems and delays in broadband deployment by ensuring that broadband deployment goes smoothly for both the providers who follow the rules and the larger community. On the other hand, we also know that many entities seeking access to our rights-of-way and facilities would prefer to live without rules or regulations, to the great detriment of other users, abutting landowners, commuters, and the general taxpayer. Franklin County, VA formed a public-private partnership in 2005 that allows a wireless Internet service provider access to all our vertical assets in exchange for services. This broadband network continues to grow and expand serving local government, businesses and citizens – many of which had no other option for broadband service.

In response to the NOI, Franklin County, VA provides the following information:

I. *Application Procedures, Forms, Substantive Requirements, and Charges.*

The Commission asks whether all necessary application procedures, forms, substantive requirements, and charges are readily available.²

Franklin County, VA applies the following right-of-way management and facility placement procedures. Franklin County Zoning Ordinance, located in the County Code, set forth

² NOI ¶ 14.

regulations for towers, antennas, satellite dishes in Chapter 25, Article II. Basic Regulations, Division 4. Supplementary Regulations, Section 25-128. Towers, antennas, satellite dishes. In the zoned parts of the County, new construction of towers require a special use permit in all residential and business district and are permit in the Industry Districts. To obtain a special use permit the applicant is required to meet with staff prior to filling an application with documentation to the Planning and Community Development Department for new construction of a tower and public hearings will be conducted with the Planning Commission and Board of Supervisors. If approved by the Board of Supervisors, the applicant can apply for land use and building permits. In a district that permits new towers by right, co-location on existing towers, water facilities, etc, or in the non-zoned part of the County land use and building permits are required only. (General information, procedures, and forms can be obtained on www.franklincountyplanning.org and www.franklincountyva.gov/bldg_inspect). If construction is preformed in the fifty (50') foot right-of-way owned by the Virginia Department of Transportation (VDOT), the applicant is required to obtain a land use permit. Regulations and forms are located at www.virginiadot.org/business/bu-landUsePermits.asp

II. *Sources of Delays.*

The Commission asks what factors are chiefly responsible to the extent applications are not processed in a timely fashion. The Commission also asks about errors or omissions in applications.³

In Franklin County, VA, most applications are processed very quickly. However, in some cases, [the applicant does not supply the requested information which could be the source of delay in the process.

³ *Id.*

III. *Improvements.*

The Commission asks whether there are particular practices that can improve processing.⁴

Franklin County, VA has recognized a number of practices that have improved the process. [Planning and building forms are available on line. Staff works with all applicants to streamline the processes so the project is not delayed.

Permitting Charges.

The Commission seeks data “on current permitting charges, including all recurring and non-recurring charges, as well as any application, administrative, or processing fees.” Specifically, the Commission asks commenters to identify:

- the type of facilities for which such charges are assessed;
- how such charges are structured (e.g., per foot or percent of revenue in the case of rights of way fees);
- whether the community is subject to comprehensive state franchising or rights-of way-laws;
- whether the charges are published in advance or individually negotiated, designed to approximate market rates or merely recover costs (direct and/or indirect), and accompanied by comprehensive terms, and conditions; and
- the value of any in-kind contributions required for access or permit approval.

These charges are important because [it helps in advertising cost for public hearings and staff time to work with applicants. VDOT requires a bond when construction is performed in their right-of-ways in case there are problems with the project there will be funding to correct.

⁴ NOI ¶¶ 14, 29.

IV. *Local Policy Objectives.*

The Commission asks what “policy goals and other objectives” underlie the local practices and charges in this area.⁵

In Franklin County, VA, our policies are designed to achieve the following: facilitate the responsible deployment of services; make the services broadly available; ensure public safety; avoid traffic disruption; maintain and repair roadways; prevent public disruption and damage to abutting property; minimize accelerated deterioration to roads that accompanies street cuts; satisfy aesthetic, environmental, or historic preservation concerns; avoid damage to the property of others; obtain fair compensation for use of public property

V. *Possible Commission Actions.*

Finally, the Commission asks what actions the Commission might take in this area.⁶

As noted above, Franklin County, VA strongly urges the FCC to refrain from regulating local right-of-way management and facility placement processes. These are highly fact-specific matters, which turn on local engineering practices, local environmental and historical conditions, local traffic and economic development patterns, and other significant community concerns and circumstances. These matters are managed by local staffs with considerable expertise. Imposing a federal regulatory regime would create unnecessary costs for our community, and it would have the potential to undermine important local policies. Likewise, Commission regulation of charges for use of the rights-of-way could have significant impacts on the community, and may actually make it infeasible to continue to maintain or provide important public services. Franklin

⁵ NOI ¶ 22.

⁶ NOI ¶ 36.

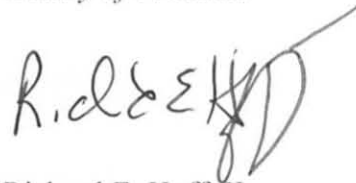
County provides free wi-fi Internet access at all public libraries and government offices. If the Commission feels compelled to act in this area at all, it should limit itself to voluntary programs and educational activities, and to implementing its own recommendations in the National Broadband Plan for working cooperatively with state and local governments.

CONCLUSION

Franklin County, VA urges the Commission to conclude that right-of-way and facility management and charges are not impeding broadband deployment. As indicated above, in Franklin County, VA, our policies and procedures are designed to protect important local interests, and have done so for many years. There is no evidence that the policies have impaired any company from providing broadband service here, and there are many reasons to believe that federal regulations would prove costly and disruptive to our community.

Respectfully submitted,

County of Franklin

A handwritten signature in black ink, appearing to read "R. Huff, II", with a stylized flourish extending from the end.

By: Richard E. Huff, II
County Administrator

cc: National League of Cities, Bonavita@nlc.org
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